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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/624).

The Counter-Terrorism Committee has received the attached supplementary report from the Libyan Arab Jamahiriya submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Arabic]

Letter dated 28 August 2002 from the Deputy Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I am pleased to transmit to you herewith the responses of the Great Socialist People's Libyan Arab Jamahiriya to the comments received from the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) dated 28 September 2001.

(*Signed*) Ahmed A. **Own**
Deputy Permanent Representative

Enclosure

Responses of the Great Jamahiriya to the questions received from the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The note dated 24 May 2002 (S/AC.40/2002/MS/OC.100) of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism contains a number of questions relating to the report of the Libyan Arab Jamahiriya submitted to the Committee on 26 December 2001 on the steps taken by Libya to implement that resolution.

In the following pages we present the questions raised by the Committee and the corresponding responses.

Paragraph 1 (a)

- **Which are the "terms and the circumstances stipulated by the Board of Management of the Central Bank of Libya" that are instrumental in implementing subparagraph 1 (a) of the Resolution?**
- **What penalties apply in case of breach of the regulations issued by the Board of Management of the Central Bank of Libya?**
- **Please provide the CTC with a progress report on the legislation which is currently being prepared in order to counter and prevent money-laundering and trafficking in illegal funds.**
- **Do informal banking networks (e.g. hawala) exist in the Libyan Arab Jamahiriya, either in law or in practice? If so, please outline the provisions regulating such networks.**

Response

Following the issuance of Security Council resolution 1373 (2001) concerning terrorism, the Central Bank of Libya took the following steps:

1. The Central Bank of Libya, in order to cope with money-laundering, established within the Bank a financial information unit to which all banks and financial institutions operating in the Libyan Arab Jamahiriya send reports on suspicious transactions. One of the functions of the unit will be to exchange information with its counterparts in other countries on the basis of international agreements to which Libya is a party or on a basis of reciprocity. This means that all banks and financial institutions operating in the Libyan Arab Jamahiriya are required to create an information unit to combat the laundering of illegal funds; to monitor all operations and transactions carried out by the bank or institution in question or persons dealing with them and suspected of being connected with deposits or transfers of funds of unknown origin; and to report to the information unit of the Central Bank of Libya any relevant data or information.

2. With regard to the penalties imposed in case of violation of the regulations issued by the Central Bank of Libya, the Banking, Money and Credit Act (Act No. 1 of 1993) grants the Central Bank of Libya powers of supervision and control and the authority to issue compulsory directives to all banks and qualifies violations of the

directives so issued as violations of the Act itself punishable by penal sanctions such as imprisonment, fines, confiscation and publication in the media. Moreover, the Governor of the Bank is given the authority to grant the capacity of judicial investigation officers to many of his subordinates. In addition, the circulation, conversion or transfer of or dealings in currency in violation of the rules laid down by the Central Bank of Libya are considered under the Act as customs smuggling crimes which customs officials are granted the authority to prosecute.

3. A bill on combating money-laundering has been prepared and the necessary steps are being taken for its submission to the Basic People's Congresses empowered to issue laws in Libya so that the related act may be promulgated at their next session.

4. Regarding the question of whether Libya has promulgated any laws on informal banking networks (hawalat), the relevant Libyan legislation prohibits any transfer of funds otherwise than through banks authorized to conduct banking in accordance with the rules, principles and conditions established by the Central Bank of Libya mentioned in the previous report to the Committee.

Paragraph 1 (b)

- **What are the offences and penalties provided for in the Libyan Arab Jamahiriya with respect to the activities listed in this subparagraph?**

Response

The bill on combating money-laundering includes penalties such as imprisonment, a fine equal to the amount of the funds involved in the offence and the confiscation of the funds laundered or intended to be laundered. It also provides penalties for establishments or institutions that participate in the crime of money-laundering or through which such offences are committed. The penalty consists of a fine equal to half the amount of the funds involved in the offence together with the confiscation of the funds. Under this bill, the governor of the Central Bank of Libya would have the power to freeze accounts and funds suspected of being connected with money-laundering offences in addition to executing orders for the seizure or attachment of funds through the Central Bank of Libya if such funds are held in a financial institution licensed by the Bank.

Paragraph 1 (c)

- **Please describe the existing or planned procedure for freezing funds, financial assets, etc., of persons or entities suspected of terrorist activities as distinct from freezing funds, financial assets, etc., of persons suspected of engaging in money-laundering activities.**
- **What is currently the legal basis for the freezing of assets and accounts of those proved to have been involved in criminal acts?**
- **Please describe the procedure leading to the freezing of funds, financial assets and economic resources.**
- **The Libyan Arab Jamahiriya has initiated the constitutional procedure to become a party to the International Convention for the Suppression of the Financing of Terrorism and will therefore "enact supplementary**

legislation in keeping with the obligations imposed" by the Resolution. The CTC would be grateful to receive a progress report regarding that supplementary legislation.

Response

As communicated to the Secretary's Department of the International Monetary Fund by letter No. RSD 300/1 of the Governor of the Libyan Arab Jamahiriya, dated 4 May 2002, no money-laundering operations or offers of transactions whose origins are suspicious or which are connected with terrorist activities have been noted in the Libyan banking sector. Nevertheless, in the event that any suspicious transaction is observed or any report is received on operations involving the laundering of illegal funds or funds connected with terrorist operations or terrorist groups, appropriate legal steps will be taken in accordance with the provisions of the relevant laws in force, one such step being the seizure by the investigating authorities, until the completion of the investigation, of any funds whose origin is suspicious. Under the legislation in force in the Libyan Arab Jamahiriya, any funds whose origin is unknown are considered suspicious until the contrary is proven, which means that the investigating authorities have the power to seize any sums of that nature.

At present, the legal bases for the freezing of funds and accounts connected with persons whose involvement in criminal operations has been proven are found in the Penal Code and the Code of Criminal Procedure, under which such persons are turned over to the judiciary to be tried in accordance with the provisions of those two codes and the other laws in force. As previously mentioned, the accounts or funds involved in such criminal activities are ordinarily frozen pursuant to orders issued by the competent judicial authorities, including the investigating authorities.

Paragraph 1 (d)

– **What preventive controls and surveillance measures has the Libyan Arab Jamahiriya put in place to ensure that funds intended for the financing of terrorism are not transferred through charitable, religious or cultural organizations?**

Response

The activities carried on by religious, cultural and other charitable organizations in Libya are defined by the enactments establishing them, which always contain a restrictive enumeration of their objectives and the ways and means of achieving those objectives. Such enactments also include all the requisite guarantees to rule out any possibility of the misuse of their funds or any redirection of them to purposes and objectives other than those of the charitable organization. In any event, to ensure that such organizations adhere to their objectives and to check the soundness of their financial procedures, their accounts are prepared and their annual balance sheets audited by recognized chartered accountants and auditors in accordance with rigorous standards.

It is important to make sure that any transfer of funds outside the country, whether to charitable organizations or to others, takes place only in accordance with the specific procedures and rigorous controls contained in the Monetary Control Act and designed to prevent the use of such funds for any purposes that are contrary to law.

Paragraph 2 (a)

- **What measures does the Libyan Arab Jamahiriya have in place to prevent terrorists from obtaining weapons in its territory, in particular small arms and light weapons? What is the Jamahiriya's legislation concerning the acquisition, possession and exportation of weapons?**

Response

Libyan Act No. 29/1994, concerning weapons and ammunition, prohibits the acquisition, possession and manufacture of and trade in weapons, ammunition and explosives of any kind by any person not licensed therefor by the competent authority, which is exclusively the Secretary of the General People's Committee for Justice and Public Security (Minister of Justice). Detailed definitions of weapons are provided in lists annexed to the Act and are extended to include edged weapons, such as knives. The Act specifies the procedures for the granting of licences to individuals for the possession of weapons and establishes stringent conditions and restrictions in that regard. It specifies a single entity having the right to import and trade in arms, ammunition and explosives, namely the General Company for Importation of Safety & Security Products, a totally State-owned public corporation. The Act provides for and specifies strict controls relating to the quantity of weapons and ammunition whose importation is permissible, such importation requiring a decision of the Secretary (the Minister). This tight system covers the transport of weapons and ammunition from place to place, such transport requiring written permission from the security authorities clearly stating the quantities of weapons and ammunition for whose transport permission is granted, the entities from and to which they are to be transported, the transport means, the time and the itinerary, as well as any other conditions imposed by public security considerations. The Act establishes the penalty of life imprisonment for anyone who possesses, acquires, buys, sells, delivers, transports or presents any arms, ammunition or explosives for the purposes of trafficking or traffics in them in any manner whatsoever outside of the cases specified in the Act.

The Act also establishes the penalty of imprisonment for the acquisition or possession, without a license issued in accordance with the Act, of any weapons, ammunition or explosives, irrespective of the purpose of such acquisition or possession.

Paragraph 2 (b)

- **Please elaborate on the entity which the Libyan Arab Jamahiriya has selected as a contact point for the exchange of information and for consultation between members of the committee to monitor relations among the western Mediterranean States with regard to terrorism and the criminal police.**

- **Please describe how this committee will be instrumental in implementing this subparagraph.**

- **Please explain how the common understanding was reached by the participants of the discussion group on organized terrorist activities, held in Rome on 9 October 2000, and its impact on the agreement concluded**

between the Libyan Arab Jamahiriya and Italy and how it will influence a similar bilateral agreement in the future.

– **Please provide the CTC with information on the mechanism for cooperation among the various agencies and the authorities responsible for narcotics control, the smuggling of funds and security, with particular regard to border controls and the prevention of the movement of terrorists.**

Response

The Great Jamahiriya joined the Conference of Ministers of the Interior of Western Mediterranean Countries on 21 June 2001. The States members of this group have agreed that each member State should have a single contact point in each security field. On that basis, the contact points in the Great Jamahiriya for terrorism, criminal police and immigration are as follows:

1. *Terrorism contact point*

   Internal Security Branch Manager (Colonel Aun Abdallah Suf)
   Telephone: 00218213608101
   Fax: 00218213608108

2. *Criminal police contact point*

   Director of the General Administration of Criminal Investigation (Brigadier-General Muhammad Bashir Shibani)
   00218213334213, 00218213335337
   Fax: 00218214444694, 00218214444437

3. *Immigration contact point*

   Director of the General Administration of Passports and Nationality (Brigadier-General Muhammad Rimali)
   Telephone: 00218213605567
   Fax: 00218213608949

The monitoring committee or monitoring team of the Conference of Ministers of the Interior of Western Mediterranean Countries is one of the fundamental mechanisms of cooperation among member States. It is the body in charge of preparing meetings of the ministers of the interior, coordinating meetings of experts and contact points in the different fields, following up and evaluating the results of their work and issuing relevant recommendations, in the following areas:

1. Monitoring the degree of cooperation noted among the different contact points and striving to develop that cooperation;

2. Examining the periodic reports presented by the contact points, expressing the related observations and submitting them to the competent ministers;

3. Monitoring and evaluating the system of exchange of information among the different contact points;

4. Holding periodic meetings of contact points or members of the monitoring team whenever needed, such as the meeting of terrorism contact points held in Madrid on 7 February 2002, at which the delegations gave an analytical presentation on the most recent terrorist acts committed in the territory of the member States; a

review was made of the status of signatures and ratifications of the United Nations conventions on terrorism; and resolutions were adopted to facilitate coordination and contacts among contact points in that sphere.

The various security organs and the General Administration for Combating Crime Related to Drugs and Psychotropic Substances are placed under the Secretariat of the General People's Committee for Justice and Public Security; the chief clerk for security affairs of that Administration is in charge of overseeing the progress of work in those organs, under the direct supervision of the Secretary. Consequently, cooperation among those organs takes place, in addition to direct communication and coordination of work among them, through the chief clerk for security affairs, who is in charge of coordinating their work and issuing, whenever necessary, directives defining the powers and duties of each authority within the framework of joint security work.

In the area of border controls, the mechanism of cooperation operates through the General Administration of Border-crossing and Exit/Entry Points, which prepares detailed recommendations governing security operations at borders to ensure complete control at all times and under all circumstances.

Paragraph 2 (c)

– **Please provide examples of any relevant action taken.**

Response

It has been mentioned previously that terrorist acts are deemed criminal, that anyone who perpetrates such acts is a criminal and that Libyan legislation calls for the expulsion of any criminal. Reference has been made to articles 158-225 of the Penal Code and article 16 of Act No. 6/89 on the entry and exit of aliens into and from Libya.

Paragraph 2 (d)

– **Does article 168 of the Libyan Penal Code or any other legal provision in the Libyan Arab Jamahiriya criminalize terrorist acts against foreign citizens?**

Response

Actually, aggression against persons is considered an offence punishable under the law irrespective of whether the person against whom it is committed is a national or a foreigner, for the object of the protection of the law is the human being, regardless of his nationality, origin or religion. This is true whether the aggression is committed against the person, as in the case of crimes against his life or safety (Penal Code, articles 368-379), his dignity (articles 407-424 of the said Code), his freedom (articles 425-437) or his honour (articles 438-443), or whether it is committed against his property, as in the case of theft and other similar offences (articles 444-446). Inasmuch as the crime involves aggression against a right protected by law, it is irrelevant whether the victim of the aggression is a Libyan or a foreigner and no distinction is made between the two. Moreover, as pointed out in our previous response, under the provisions of Book Two, chapter III, of the Penal Code, which relates to felonies and misdemeanours against foreign States, those

offences include aggression against foreign heads of State, which is punishable by imprisonment for a term ranging up to life, depending on the case (article 218); attacks against the freedom of foreign heads of State, the penalty for which is imprisonment (article 219); acts disgracing foreign heads of State in Libyan territory or attacks on their honour, which are punishable by imprisonment for a term of not less than five years (article 220); aggression against representatives of foreign States accredited in Libya, to which the provisions of the three preceding articles apply (article 221); and aggression against the flag of a foreign State or an international organization, which is punishable by imprisonment (article 222). As for article 168, it relates to the offence of recruitment or mobilization against a foreign State or the perpetration of hostile acts against such a State that are likely to expose the Libyan Arab Jamahiriya to the risk of war or the severance of diplomatic relations with the State concerned or to lead to retaliation against it or against its nationals, wherever they may be.

Paragraph 2 (e)

- **Please provide the CTC with a copy of the provisions of article 5 of the Penal Code.**

- **How does the Libyan Arab Jamahiriya intend to criminalize "terrorist acts" as announced in the report?**

Response

A copy of the requested article 5 is attached hereto.

A new draft Penal Code is being prepared and will include crimes qualified as terrorist acts.

Paragraph 2 (f)

- **What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings relating to the financing or support of terrorist acts must be met and how long does it take to implement such a request?**

Response

Requests for judicial assistance in carrying out criminal investigations are complied with immediately after agreement is reached between the judicial authorities in the Libyan Arab Jamahiriya and those in the country concerned. The time required to implement the request is the time it takes for the request to pass through the recognized diplomatic channel, from the General People's Committee for Foreign Liaison and International Cooperation to the General People's Committee for Justice and General Security. Normally, the time required for the procedure of compliance with the request is not more than a few months. The time required for the execution of letters rogatory is the duration of the investigation of the matter in question.

Paragraph 2 (g)

- **How do the procedures for the issuance of identity papers and travel documents prevent the counterfeiting, forgery or fraudulent use of those documents and what other measures exist to prevent their forgery, etc.?**

Response

The procedures in question in this paragraph, which have been referred to in the previous report of the Libyan Arab Jamahiriya, have greatly helped to combat and prevent the forgery and illegal use of identity and travel documents. The creation of a database containing personal information on all Libyans within a system that includes photographs has helped to put an end to all attempts to tamper with such developments. Furthermore, the Libyan Arab Jamahiriya is currently studying the use of advanced technologies for the issuance of tamper-proof travel documents.

Paragraph 3 (a) and (b)

- **Please describe the institutional mechanism which enables Libya to comply with these subparagraphs.**

Response

As indicated in the foregoing response, as early as 1984 the Libyan Arab Jamahiriya created a counter-terrorism office directly subordinate to the Secretary of the General People's Committee for Foreign Liaison and International Cooperation (Minister for Foreign Affairs). Inasmuch as the Libyan Arab Jamahiriya is not a stronghold of terrorist activity, this office has not had any clear-cut role to play despite the fact that it has been in existence for a considerable time. Nevertheless, its role will be activated when and if the need arises.

Paragraph 3 (d)

- **The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on the steps taken in connection with:**
  - **Becoming a party to the instruments to which the Libyan Arab Jamahiriya is not yet a party; and**
  - **Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

Response

Act No. 31 of the year 1369 from the death of the Prophet (2001 a.d.) concerns the ratification of international treaties, conventions and protocols concluded between the Libyan Arab Jamahiriya and other States, as well as within the framework of regional and international organizations, to which the Libyan Arab Jamahiriya was not a party prior to the promulgation of the Act.

The Act provides for the ratification of the following conventions related to the fight against international terrorism, concluded within the framework of the United Nations:

- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly on 9 December 1999, for which an instrument of ratification has been deposited;

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988);

- Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991);

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988), supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (Montreal on 23 September 1971), supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988);

The instruments of ratification of these conventions will be deposited as soon as possible.

Paragraph 3 (e)

- **Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which the Libyan Arab Jamahiriya is a party?**

Response

Agreements concluded by the Libyan Arab Jamahiriya with other States normally contain a provision permitting extradition in the case of offences other than political offences. It is generally recognized, with respect to the Libyan Arab Jamahiriya, that offences are examined in terms of their essence, without heed to the reasons for their perpetration; hence the possibility of extradition in respect of offences relating to terrorism is ensured, since they are not considered political crimes.

Paragraph 3 (f) and (g)

- **How does Libyan legislation ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists as required by subparagraph 3 (g) of the Resolution?**

Response

Under Libyan law, the motive for committing an offence is not considered; consequently it does not constitute grounds for permitting a criminal's action or for divesting such action of its unlawful character. It follows from this that whenever extradition is a necessary measure according to international law or a bilateral agreement or is required by arrangements for the trial of the perpetrator of a criminal act, the motive, whatever it may be, has no effect on extraditability and cannot be adduced as a basis for rejecting the request for extradition. In all this, however, one must take into account the different points of view regarding the definition of the concept of terrorism and the fact that the international community has yet to agree on a standard definition acceptable to all States.

Appendix

Book One

Crimes in general

Chapter I

General Rules

Article 5. Crimes Committed in Foreign Countries

The provisions of the present Code shall also apply to the following persons:

I. Anyone who commits, outside the country, an act which makes him a principal in or accomplice to a crime that takes place in whole or in part in Libya.

II. Anyone who commits any of the following offences:

(a) A felony affecting the security of the State, as provided in Book Two, chapters I and II, of the present Code;

(b) The felony of forgery, as provided in articles 224 and 225 of the present Code;

(c) The felony of counterfeiting money having legal currency in Libya, as provided in article 326 of the present Code;

(d) The felony of slavery, as provided in article 427 of the present Code.